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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,674	08/23/2001	Takeshi Saito	213200US2RD	7904
22850	7590	06/07/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			TRAN, TONGOC	
			ART UNIT	PAPER NUMBER
			2134	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,674

Applicant(s)

SAITO, TAKESHI

Examiner

Tongoc Tran

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/23/01, 4/28/03, 3/5/04, 9/6/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to Applicant's amendment filed on March 6, 2006. Claims 23 and 24 are added. Claims 1-24 are pending.

Response to Arguments

2. Applicant's response to objection to the Specification has been considered but in view of what the Examiner interprets from the text cited below from the MPEP. The objection is maintained.

VII. Hyperlinks and Other Forms of Browser-Executable Code in the Specification

Examiners must review patent applications to make certain that hyperlinks and other forms of browser-executable code, especially commercial site URLs, are not included in a patent application. 37 CFR 1.57(d) states that **an incorporation by reference by hyperlink or other form of browser executable code is not permitted**. Examples of a hyperlink or a browser-executable code are a URL placed between these symbols and http:// followed by a URL address. When a patent application with embedded hyperlinks and/or other forms of browser-executable code issues as a patent (or is published as a patent application publication) and the patent document is placed on the USPTO web page, when the patent document is retrieved and viewed via a web browser, the URL is interpreted as a valid HTML code and it becomes a live web link. When a user clicks on the link with a mouse, the user will be transferred to another web page identified by the URL, if it exists, which could be a commercial web site. USPTO

policy does not permit the USPTO to link to any commercial sites since the USPTO exercises no control over the organization, views or accuracy of the information contained on these outside sites. If hyperlinks and/or other forms of browser-executable code are embedded in the text of the patent application, **examiners should object to the specification and indicate to applicants that the embedded hyperlinks and/or other forms of browser-executable code are impermissible and require deletion**. This requirement does not apply to electronic documents listed on forms PTO-892 and PTO/SB/08 where the electronic document is identified by reference to a URL. The attempt to incorporate subject matter into the patent application by reference to a hyperlink and/or other forms of browser-executable code is considered to be an improper incorporation by reference. See 37 CFR 1.57(d) and MPEP § 608.01(p), paragraph I regarding incorporation by reference. Where the hyperlinks and/or other forms of browser-executable codes themselves rather than the contents of the site to which the hyperlinks are directed are part of applicant's invention and it is necessary to have them included in the patent application in order to comply with the requirements of 35 U.S.C. 112, first paragraph, and applicant does not intend to have these hyperlinks be active links, examiners should not object to these hyperlinks. The Office will disable these hyperlinks when preparing the text to be loaded onto the USPTO web database. Note that nucleotide and/or amino acid sequence data placed between the symbols are not considered to be hyperlinks and/or browser-executable code and therefore should not be objected to as being an improper incorporation by reference (see 37 CFR 1.821 –1.825).

In response to Applicant's remark that the combination of the cited prior art Bluetooth Specification and 5c White Paper do not teach or suggest how the first and second encryption keys can be combined as claimed to transmit copy protected contents data securely. Applicant further argues that neither Bluetooth nor the 5C White Paper reference teaches or suggest a second authentication unit performing such an operation based on utilizing a first encryption key, a second key exchange is executed and contents are then transmitted utilizing the second encryption key. Bluetooth teaches authentication of the devices and establishing key for the security between the devices over a radio communication network. 5C White Paper concerns with authentication and key establishment for copyright protection content between the devices. It would have been obvious to utilize the encryption key taught by Bluetooth for securing the communications established between the devices with the addition protection by the authentication and key establishment to protect the copyright content data for added security to ensure that the receiving device is authorized for the copyright protected content.

Specification

3. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Rejections - 35 USC § 103

Art Unit: 2134

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Bluetooth Specification", Bluetooth Security, November 29, 1999, pages 149-178, in view of "5C Digital Transmission Content Protection White Paper" Revision 1.0 July 14, 1998, pages 1-13.

In respect to claims 1, 6 and 23, Bluetooth discloses transmitting device, for transmitting copyright protected contents data to a receiving device through radio communications, transmitting device comprising:

a first authentication unit configured to carry out a first authentication with the transmitting device, for judging whether the transmitting device is the device that is allowed to communicate with the transmitting device or not, on a radio link layer of the radio communications;

a first key exchange unit configured to generate a first encryption key and share the first encryption key with the transmitting device when the first authentication with the transmitting device by the first authentication unit is success (Bluetooth, pages 149-154);

Bluetooth discloses an encrypted radio communication using a first encryption key; a communication unit to setup an encryption path and transmit data to the receiving

Art Unit: 2134

device through an encrypted communication path (Bluetooth, pages 149-154) but does not explicitly disclose a second authentication unit configured to carry out a second authentication with the receiving device, for protecting copyright of the contents data to be transmitted; a second key exchange unit configured to generate a second encryption key and share the second encryption key with the receiving device when the second authentication with the receiving device by the second authentication unit is successful and transmit contents data through the second encryption key. However, 5C White Paper discloses copy protection system through authentication, exchange key and encrypting contents data being exchanged (5C White Paper, pages 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the authentication and key exchange taught by Bluetooth to establish a secure communication link between authorized devices with 5C White Paper's teaching of providing copy protection system for protecting contents data through a second authentication and key exchanged by encrypting the content data with the content key to ensure the copyrighted content data is securely managed.

In respect to claim 2, Bluetooth and 5C White Paper disclose the transmitting and receiving devices of claims 1 and 6. Bluetooth and 5C White Paper do not explicitly disclose wherein when the second authentication or sharing of the second encryption key is failure for a reason that the encrypted radio communication on the radio link layer is missing, one of the second authentication unit and the second key exchange unit notifies the failure and the reason to the receiving device. However, Official Notice is

taken that it is old and well known for data transmitting device to notify receiving device in event of communication failure and the reason occurred (for example, user surfing Internet receives communication disconnecting message and reason). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate this well known feature with Bluetooth and 5C White Paper authentication and key exchange due to the fact that radio communication is more vulnerable to communication failure due to frequent airway interference.

In respect to claim 3, Bluetooth and 5C White Paper disclose the transmitting device of claims 1 and 6, further comprising a storage unit configured to store the contents data (5C White Paper, Fig. 1, page 4).

In respect to claim 4, Bluetooth and 5C White Paper disclose the transmitting device of claims 1 and 6, wherein the first authentication by the first authentication unit is success when a PIN code entered at the transmitting device and a PIN code notified from the receiving device are in a prescribed relationship (Bluetooth, page 152, 6th paragraph).

In respect to claim 5, Bluetooth and 5C White Paper disclose the transmitting device of claim 4, wherein each PIN code contains at least one of a varying code information, a prescribed code information, a body information acquired from a body of a user, and an attribute information regarding attributes of the user (Bluetooth, page

152, 6th paragraph).

In respect to claims 11, 15 and 24, the claim limitations are receiving device claims that are substantially similar to claims 1, 6 and 23. Therefore, claims 11, 15 and 24 are rejected based on the similar rationale.

In respect to claim 12, Bluetooth and 5C White Paper disclose the transmitting device of claim 11, further comprising a reproduction unit configured to reproduce the contents data (5C White Paper, page 2, 7th paragraph).

In respect to claims 7-10, 13-14 and 16-18, the claim limitations are substantially similar to claims 2-5 and 12. Therefore, claims 7-10, 13-14 and 16-18 are rejected based on the similar rationale.

In respect to claims 19-22, the claim limitation are system claims that are substantially similar to claims 1 and 11. Therefore, claims 19-22 are rejected based on the similar rationale.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

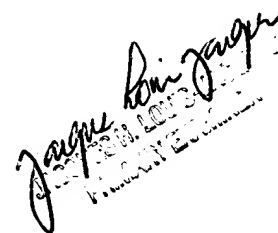
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tongoc Tran whose telephone number is (571) 272-3843. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on (571) 272-3962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Examiner: Tongoc Tran
Art Unit: 2134

May 26, 2006


JACQUES BONI JACQUES
Patent Examiner